UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,047	12/31/2001	Lee Friedman	36968/258392 (BS01155)	2287

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EXAMINER
REILLY, SEAN M

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 February 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>6,7,9,10,13,19,36,37 and 39</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>6-7, 9-10, 13, 19, 36-37, and 39</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

This Office action is in response to Applicant's amendment and request for reconsideration filed on February 28, 2007. Claims 6-7, 9-10, 13, 19, 36-37, and 39 are presented for further examination. All independent claims have been amended. Applicant's arguments regarding the newly added limitations are moot in view of the new grounds of rejection set forth below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. **Claims 6, 7, 9, 10, 36, 37, and 39, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent Number 6,693,912) and Bahadiroglu (U.S. Patent Application Publication 2002/0186660; hereinafter Bahadiroglu) and Applicant's Admitted Prior Art.**

With regard to claims 6, 13, and 36, Wang disclosed a method executed by multiple dispersed devices (Figure 1, gateways to between to the two end users) for adapting data received from a remote sending device according to quality of service parameters associated with a plurality of network segments (e.g. each segment between the gateways in figure 1) that are downstream from the dispersed devices, comprising:

☐ receiving at the disbursed devices instructions, wherein the instructions instruct the

disbursed devices to adapt the data (e.g. each network 2A, 3A, 3B, and 2B is

configured with their own QoS parameters that are used to adapt the data as it flows

from network to network, see inter alia Col 3, lines 1-17 – "it will be assumed that

each of these four network has a different QoS system," Col 3, lines 56-61, Col 4,

lines 5-14, and Col 5, lines 32-38 - "each network can introduce new QoS

technology");

☐ receiving the data from the remote sending device (e.g. the end nodes can send data to

each other, Figure 1 and Col 4, lines5-14);

☐ adapting the data to conform to the quality of service parameters associated with each

network segment downstream from the one of the dispersed devices therein adapting

the data at the dispersed devices rather than adapting the data at the remote sending

device wherein the dispersed devices are located between the remote sending device

and the plurality of network segments (adapting to data to the QoS specifications of

each network as it pass through each network, such as "traffic parameters and other

QoS parameters," (again refer to inter alia Col 3, lines 1-17, lines 56-61, Col 4, lines

5-14, and Col 5, lines 32-38),

☐ transmitting the adapted data along each network segment to one of a plurality of

segment endpoints where the segment endpoints (e.g. gateways and end user clients)

comprise at least one recipient client and at least one sub-segment dispersed device

that further adapts the data previously adapted to conform the data according to

quality of service parameters associated with a network sub-segment adjacent and

downstream from the at least one of the plurality of segment endpoints comprising

the sub-segment dispersed device; (again the data is further adapted as it pass

through each network).

Wang failed to specifically recite requesting new programming for adapting the data

upon detecting changes in the quality of service parameters for each network segment.

Nonetheless it was widely known in the art at the time of the invention to dynamically adapt data

upon detecting changes in the quality of service parameters for each network segment, as

evidenced by Bahadiroglu. In an analogous art, Bahadiroglu disclosed a system for transmitting

data between sending and receiving nodes (abstract). Bahadiroglu's system requests new

programming for adapting the data upon detecting changes in the quality of service parameters

for each network segment (i.e. adjusting the packet size and inter-packet interval in real time

according to bandwidth restrictions of the network segment such as latency, jitter and traffic

conditions ¶ 71). Thus, it would have been obvious to one of ordinary skill in the art at the time

of the invention to incorporate the packet sizing functionality disclosed by Bahadiroglu, within

Wang's system, in order to ensure the available bandwidth is maximized (Bahadiroglu ¶71).

2.   With regard to claims 7 and 37, Bahadiroglu disclosed adjusting packet size according to

bandwidth restrictions of each network segment (latency, jitter and traffic conditions) (¶ 70).

3. With regard to claims 9, 19, 30, and 39, Wang disclosed adapting the data further comprises

replicating the data (the content is never changed, just the form of the content changes).

4. With regard to claims 10 and 40, Examiner takes official notice that it was widely known in the art at the time of Applicant's invention to transmit the parameters of networking devices on a network to the administrator of that network so that the administrator can monitor, repair, and configure the network as needed. Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to transmit the quality of service parameters from each network device to a network administrator so that the administrator can monitor, repair, and configure the network as needed.

Conclusion

5. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 7, 2007

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